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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.

4821-469

Total Pages

27

First Named Inventor or Application Identifier

P. RUBIN

Express Mail Label No.

N/A

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form  
Submit an original, and a duplicate for fee processing)

2. ☒ Specification [Total Pages 25]  
(preferred arrangement set forth below)

- Descriptive title of the Invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R&D
- Reference to Microfiche Appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (if filed)
- Detailed Description of the Invention (including drawings, if filed)
- Claim(s)
- Abstract of the Disclosure

3. ☐ Drawing(s) (35 USC 113) [Total Sheets ]

4. ☒ Oath or Declaration [Total Sheets 2]

- a. ☐ Newly executed (original or copy)
- b. ☒ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 17 completed)  
[Note Box 5 below]

### i. ☐ DELETION OF INVENTORS(S)

Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33 (b).

5. ☒ Incorporation By Reference (useable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

6. ☐ Microfiche Computer Program (Appendix)

7. ☐ Nucleotide and/or Amino Acid Sequence Submission  
(if applicable, all necessary)

- a. ☐ Computer Readable Copy
- b. ☐ Paper Copy (identical to computer copy)
- c. ☐ Statement verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS

- 8. ☐ Assignment Papers (cover sheet & document(s))
- 9. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney  
(when there is an assignee)
- 10. ☐ English Translation Document (if applicable)
- 11. ☒ Information Disclosure ☐ Copies of IDS  
Statement (IDS)/PTO-1449 Citations
- 12. ☒ Preliminary Amendment
- 13. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
- 14. ☐ Small Entity Statement filed in prior application,  
Statement(s) Status still proper and desired
- 15. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
- 16. ☐ Other:

17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP) of prior U.S. Application No 09/721,668 filed November 27, 2000, which is a continuation of U.S. Application No. 09/059,572 filed April 14, 1998, now U.S. Patent No. 6,248,308

## 18. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label

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Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Prior application: Examiner R. Bawa

Art Unit 1619

Assistant Commissioner for Patents  
Box PATENT APPLICATION  
Washington, D.C. 20231

Sir:

This is a request for filing a ☐ continuation ☒ divisional application under 37 CFR § 1.53(b), of pending prior U.S. Application No. 09/721,668 filed on November 27, 2000, which is a continuation of U.S. Application No. 09/059,572 filed on April 14, 1998, now U.S. Patent No. 6,248,308.

of P. RUBIN

(inventor(s) currently of record in prior application)

for METHODS AND COMPOSITIONS USING NORASTEMIZOLE IN COMBINATION WITH LEUKOTRIENE INHIBITORS

(title of invention)

1. ☒ The filing fee is calculated below:

## PATENT APPLICATION FEE VALUE

TYPE	NO. FILED	LESS	EXTRA	EXTRA RATE	FEE
Total Claims	43	-20	23	\$18.00 each	\$ 414.00
Independent	12	-3	9	\$84.00 each	\$ 756.00
Basic Fee					\$ 740.00
Multiple Dependency Fee If Applicable (\$280.00)					\$ 280.00
<b>Total</b>					\$ 2,190.00
50% Reduction for Independent Inventor, Nonprofit Organization or Small Business Concern					- \$ 0.00
<b>Total Filing Fee</b>					\$ 2,190.00

2. ☒ Please consider the Preliminary Amendment prior to calculating and charging the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.
3. ☒ Amend the specification by inserting before the first line the following sentence: This is a division of U.S. Application No. 09/721,668, filed November 27, 2000, which is a continuation of U.S. Application No. 09/059,572 filed on April 14, 1998, now U.S. Patent No. 6,248,308.

- 4a. ☐ New formal drawings are enclosed.
- 4b. ☐ Informal drawings are enclosed.
- 5a. ☐ Priority of application no. filed on in is claimed under 35 U.S.C. §119.
- 5b. ☐ The certified copy has been filed in prior application no. , filed .
6. ☒ The prior application is assigned of record to Sepracor, Inc. and recorded at Reel 9259, Frame 0948 on June 15, 1998.
- 7a. ☒ A copy of the Declaration and Power of Attorney filed in the prior U.S. Application No. 09/059,572, filed April 14, 1998 is enclosed.
- 7b. ☐ A Power of Attorney is enclosed.
8. ☐ This application contains nucleic acid and/or amino acid sequences required to be disclosed in a Sequence Listing under 37 CFR §§1.821-1.825. It is requested that the Sequence Listing in computer readable form from prior application no., filed on be made a part of the present application as provided for by 37 C.F.R. §1.821(e). The sequences disclosed therein are the same as the sequences disclosed in this application. A copy of the paper Sequence Listing from application no. is enclosed.
9. ☐ The undersigned states, under 37 C.F.R. §1.821(f), that the content of the enclosed paper Sequence Listing from application no. is the same as the content of the computer readable form submitted in application no. .
10. ☐ DO NOT PUBLISH. I hereby certify that the invention disclosed in the attached application has not and will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).
11. ☒ Copy of application and Information Disclosure Statement and Form PTO-1449 are enclosed.

Respectfully submitted,

Date February 28, 2002

For:



Paul E. Dietze Reg. No. 45,627  
 Anthony M. Insogna Reg. No. 35,203  
 PENNIE & EDMONDS LLP  
 1667 K Street, N.W.  
 Washington, D.C. 20006